

DG 02-170  
DA 02-191

**ENERGYNORTH NATURAL GAS, INC. D/B/A  
KEYSPAN ENERGY DELIVERY NEW ENGLAND**

**2002-2003 Winter Period Cost of Gas Proceeding  
and  
Affiliate Contract Agreement with TransGas, Inc.**

**Order Granting Motions for Protective Order  
and Confidential Treatment**

**O R D E R   N O.   24,067**

**October 11, 2002**

**I.   BACKGROUND**

EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan) is a public utility engaged in the business of distributing natural gas in 29 cities and towns in southern and central New Hampshire and the City of Berlin in northern New Hampshire.

**II.   COST OF GAS MOTIONS FOR PROTECTIVE ORDER**

On September 17, 2002, KeySpan filed a Motion for Protective Order and Confidential Treatment regarding information submitted as part of their Winter 2002-2003 Cost of Gas (COG) filing. On October 3, 2002, KeySpan filed a Motion for Protective Order and Confidential Treatment regarding information contained in their Fixed Price Option program. Collectively, KeySpan wishes to protect information relative to the names of specific gas suppliers, commodity and demand charges, and strike

prices for derivatives purchased by KeySpan which effectively shows the commodity costs for gas purchased by KeySpan on a contract by contract basis. KeySpan asserts the following information should be protected as confidential commercial information:

Schedule 1	Summary of Supply and Demand Forecast
Schedule 2	Contracts Ranked on a per Unit Cost Basis
Schedule 4	Summary of Adjustments to Gas Costs
Schedule 5	Detail of Demand Volumes, Costs, Tariff Rates and Costs per Unit
Schedule 6	Detail of Commodity Volumes, Costs, Tariff Rates and Costs per Unit
Schedule 7	NYMEX Futures @ Henry Hub, Development of Commodity Rates by Content
Schedule 8	Calculation of Money Pool Interest Costs Associated with Natural Gas, LPG and LNG Storage Inventories
Schedule 11	Variance Analysis of the Components of the 2001-02 Winter Actual Results vs. Proposed Winter FPO Rate
Schedule 13	Normal and Design Year Volumes and Capacity Utilization
Schedule 14B	Agreements for Gas Supply and Transportation
Schedule 15A & B	KeySpan Energy Trading Services Deal Summaries

In support of its Motions, KeySpan states it does not disclose this information to anyone outside of its corporate affiliates and their representatives. It contends that release of the information would likely result in a competitive disadvantage to KeySpan. Specifically, KeySpan argues gas suppliers possessing this information would likely not supply KeySpan with goods or services with terms more favorable than those disclosed. KeySpan also states the information constitutes

trade secrets of KeySpan which should be protected as confidential commercial information.

KeySpan requests the protective treatment extend to any discovery, testimony, argument, or briefing relative to the confidential information.

KeySpan also represents that Commission Staff (Staff) does not object to this Motion and that the Office of the Consumer (OCA) takes no position on the Motion.

**III. AFFILIATE AGREEMENT MOTION FOR PROTECTIVE ORDER**

On October 7, 2002, KeySpan filed a Motion for Protective Order and Confidential Treatment relative to its contract with TransGas, Inc. The TransGas, Inc. contract involves terms for provision of vehicles and drivers for the delivery of liquefied natural gas (LNG) for a portion of year 2002 and extending into year 2003. Specifically, KeySpan identifies paragraphs numbered 5, 6, and 8 of the contract as confidential.

In support of its Motion, KeySpan states the pricing terms contained in the TransGas, Inc. contract is information not generally publicly known and that the parties to the contract do not disclose this information to others with the exception of their corporate affiliates and their representatives. KeySpan further states release of this pricing information would result in a competitive disadvantage to KeySpan in that they would be

less likely to secure more advantageous terms in similar contracts.

KeySpan requests the confidential material be destroyed or returned to the company at the conclusion of the Commission's review of the contract. KeySpan requests protective treatment be extended to any discovery, testimony, argument, or briefing relative to the confidential information. On October 9, 2002, Commission Staff indicated they did not object to the Motion.

#### **IV. COMMISSION ANALYSIS**

In past Commission review of COG filings, the Commission has recognized that information concerning suppliers, pricing, and other sensitive contract terms are critical to the Commission's public review of filings. See, e.g., KeySpan Energy Delivery New England, 2001-2002 Winter Period COG, Order No. 23,781, (September 21, 2001). The Commission also recognizes that this same information may be sensitive commercial information in a competitive market and may be worthy of protection.

Utilizing the balancing test we have applied in prior cases, e.g., Re NET (Auditel), 80 NHPUC 437 (1995), Re Eastern Utilities Associates, 76 NHPUC 236 (1991), and EnergyNorth Natural Gas, Inc., Order No. 23,559, Docket No. 00-193 (September 25, 2000), and considering KeySpan's representations, we find that the benefits to KeySpan of non-disclosure in this case

outweigh the benefits to the public of disclosure. Therefore, we find the information identified in the Motions is exempt from public disclosure pursuant to RSA 91-A:5,IV and N.H. Admin. Rules, Puc 204.06.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the three Motions for Protective Order and Confidential Treatment of EnergyNorth Natural Gas, Inc. d/b/a/ KeySpan Energy Delivery New England, as described above, are GRANTED; and it is

**FURTHER ORDERED**, that in future filings, KeySpan shall continue to submit both redacted and unredacted filings which the Commission shall protect from disclosure for the duration of the dockets involved, pursuant to N.H. Admin. Rules, Puc 204.06; and it is

**FURTHER ORDERED**, that this Order is subject to the ongoing authority of the Commission, on its own motion or on the motion of Staff or any party or any other member of the public, to reconsider this Order in light of RSA 91-A, should circumstances so warrant.

By order of the Public Utilities Commission of New  
Hampshire this eleventh day of October, 2002.

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Thomas B. Getz  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director and Secretary